

**REMARKS**

Reconsideration is requested for claims 1-31, 33, and 35-42, claims 32 and 34 having been cancelled.<sup>1</sup> Favorable action is requested for new claims 43-44.

Claim 41 was objected to as depending from itself. The dependency of claim 41 has been corrected. Withdrawal of the objection is cordially urged.

Claims 5 and 7 were rejected under 35 U.S.C. 112, second paragraph. The basis for this rejection is not understood. It is explained in the Official Action that there would need to be more than "at least one lateral scissor assembly" to have at least one lateral scissor assembly disposed at each end of each scissor assembly. However, "at least one lateral scissor assembly" encompasses lateral scissor assemblies in numbers from 1 on up. Thus, the at least one lateral scissor assembly recited in claim 3 can comprise two lateral scissor assemblies, at least one of which is disposed at each end of each scissor assembly according to claim 5. If the Examiner continues to maintain that the claim language is indefinite, it is requested that the grounds for the rejection be explained further. If the Examiner would like to suggest alternative language that the Examiner considers to be preferable to the language recited in claim 5, the Examiner is encouraged to do so. It is not explained in the Official Action what the grounds for the rejection of claim 7 is. Withdrawal of the rejection of claims 5 and 7 is cordially urged.

Claims 1-10, 12, 15, 18-19, 23, 25-26, 28-29, 33, and 35-37 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,444,946 to *Zeigler* (*Zeigler* '946). It is respectfully submitted that *Zeigler* '946 does not anticipate the claims of the present application. The Official Action refers to the strut pair 83, 85 and "spacers" 93', 93" and 95', 95". A tension

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<sup>1</sup> The Official Action identifies claims 32 and 34 as having been withdrawn from consideration. They are, in fact, canceled and are not pending in this application.

lock 223" is associated with pinned strut pair 83, 85. When the hubs 93', 93" and 95', 95" are locked in position relative to each other between the ends of the strut pair 83, 85, the tension lock 223" is placed in tension. However, it does not follow that, when the hubs 93', 93" and 95', 95" are separated from each other and the tension lock 223" is slack and tension in the tension lock 223" is taken up, the hubs 93', 93" and 95', 95" will move toward each other so that the struts will be placed in an expanded position. More likely, the struts will move away from an expanded position to a position in which the struts are substantially parallel with no first spacer ever being disposed between ends of the struts. It is not inherent that the struts will move to an expanded position and, for at least this reason, *Zeigler* '946 cannot be said to anticipate a structure wherein ends of struts will be moved to an expanded position when the slack in a tension member is taken up.

Claim 1 recites a combination of features wherein the tension member is arranged such that the scissor assembly is moved from the folded position when there is slack in the tension member to the expanded position when the slack in the tension member is taken up and, accordingly, *Zeigler* '946 does not anticipate claim 1 or the claims dependent therefrom, claims 2-31. Claim 33 recites a combination of steps wherein slack in the tension member is taken up until the first ends of the first and second struts are separated by a distance defined by a spacer and, accordingly, *Zeigler* '946 does not anticipate claim 33 or the claims dependent therefrom.

Claims 38-40 and 42 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Zeigler* '946. Claims 38-40 and 42 depend from claim 33. There is no motivation to modify claim 33 to provide a step wherein slack in the tension member is taken up until the first ends of the first and second struts are separated by a distance defined by a spacer as recited in claim 33 and, for at least this reason, claim 33 and the claims dependent therefrom, including claims 38-40

and 42, are submitted to define patentably over *Zeigler* '946. Withdrawal of the rejection of these claims is cordially urged.

Claims 11 and 41 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Zeigler* '946 in view of U.S. Patent No. 5,632,293 to *Carter*. *Carter* is cited as disclosing telescoping struts but cures none of the defects of *Zeigler* '946 with respect to claims 1 and 33, from which claims 11 and 41, respectively, depend. Withdrawal of the rejection of these claims is cordially urged.

Claims 13 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Zeigler* '946 in view of U.S. Patent No. 5,651,228 to *Zeigler* (*Zeigler* '228), which is cited as disclosing offset connection points of struts but cures none of the defects of *Zeigler* '946 with respect to claim 1 which claims 13 and 14 depend. Withdrawal of the rejection of these claims is cordially urged.

Claims 30 and 31 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Zeigler* '946 in view of U.S. Patent No. 4,437,275 to *Zeigler* (*Zeigler* '275), which is cited as disclosing sliding scissors but cures none of the defects of *Zeigler* '946 with respect to claim 1 which claims 30 and 31 depend. Withdrawal of the rejection of these claims is cordially urged.

Claims 1, 15-17, and 23-27 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,943,837 to *Esser et al.* in view of *Zeigler* '946. It is acknowledged in the Official Action that *Esser et al.* expressly teaches away from providing spacers between ends of struts. Accordingly, for at least this reason, it would not have been obvious to one skilled in the art to have modified *Esser et al.* to have provided spacers as disclosed in *Zeigler* '946. Additionally, modifying *Esser et al.* to provide spacers would destroy the alleged invention of *Esser et al.* for its intended function, i.e., the ability to provide a shelter without stabilizing rods

(i.e., spacers) that interfere with the ability of the structure to flex under loads. In view of the foregoing, it is respectfully submitted that claim 1 and the claims dependent therefrom, including claims 15-17 and 23-27, define patentably over *Esser et al.* in view of *Zeigler '946*. Withdrawal of the rejection of these claims is cordially urged.

Claims 19-22 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Esser* in view of *Zeigler '946* and U.S. Patent No. 4,325,207 to *Russell et al.*, which is cited as disclosing a tension member fixed at one end but does not cure the defects of *Esser et al.* in view of *Zeigler '946* as discussed above. Accordingly, it is respectfully submitted that claim 1 and the claims dependent therefrom, including claims 19-22, define patentably over *Esser et al.* in view of *Zeigler '946* and *Russell et al.*. Withdrawal of the rejection of these claims is cordially urged.

New claims 43-44 have also been added and depend from claims 1 and 33, respectively.

To the extent that the applicant does not respond to a particular comment in the Official Action, the applicant does not intend by this to indicate acquiescence in or agreement with the comment. To the extent that any extensions of time are necessary in connection with this application it is requested that there be a standing petition for extension of time and that any additional fees that are required, or refunds due, in connection with this or any other paper filed in connection with this application be charged to Deposit Account 503015.

Patent  
Application No. 10/779,636  
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If the Examiner is of the opinion that a telephone conference would be helpful in resolving any outstanding issues, the Examiner is urged to contact the undersigned.

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Respectfully submitted,  
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